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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042-8884-02]

RIN 0648-XG810

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure of the General category January fishery for 2019.

SUMMARY: NMFS closes the General category fishery for large medium and giant (*i.e.*, measuring 73 inches curved fork length or greater) Atlantic bluefin tuna (BFT) for the January subquota time period and thus until the General category reopens on June 1, 2019. The intent of this closure is to prevent overharvest of the available General category January 2019 BFT subquota of 100 metric tons (mt).

DATES: Effective 11:30 p.m., local time, February 28, 2019, through May 31, 2019.

FOR FURTHER INFORMATION CONTACT: Uriah Forest-Bulley, 978-675-2154, Sarah McLaughlin, 978-281-9260, or Larry Redd, 301-420-8503.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*)

governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments.

NMFS is required, under § 635.28(a)(1), to file a closure notice with the Office of the Federal Register for publication when a BFT quota (or subquota) is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year or for a specified period as indicated in the notification, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

The base quota for the General category is 555.7 mt. See § 635.27(a). Each of the General category time periods (January, June through August, September, October through November, and December) is allocated a subquota or portion of the annual General category quota. Although it is called the “January” subquota, the regulations allow the General category fishery under this quota to continue until the subquota is reached or March 31, whichever comes first. The baseline subquotas for each time period are as follows: 29.5 mt for January; 277.9 mt for June through August; 147.3 mt for September; 72.2 mt for October through November; and 28.9 mt for December. Any unused General category quota rolls forward from one time period to the next and is available for use in subsequent time periods within the fishing year. Effective

January 1, 2019, NMFS transferred 19.5 mt of the 28.9-mt General category quota allocated for the December 2019 period to the January 2019 period, resulting in an adjusted subquota of 49 mt for the January period and a subquota of 9.4 mt for the December 2019 period (83 FR 67140, December 28, 2018). Effective February 8, 2019, NMFS transferred 26 mt from the Reserve category to the General category January 2019 subquota period, resulting in an adjusted subquota of 75 mt for the January period and 3.5 mt for the Reserve category (84 FR 3724, February 13, 2019). Effective February 25, 2019, NMFS transferred an additional 25 mt from the Reserve category to the General category, in the same notice as NMFS made the annual reallocation of Purse Seine category quota to the Reserve category, resulting in an adjusted subquota of 100 mt for the General category 2019 January subquota period and 143 mt for the Reserve category (FR document 2019-03554 filed for public inspection, February 25, 2019).

Based on the best available landings information for the General category BFT fishery, NMFS has determined that the adjusted General category January 2019 subquota of 100 mt has been reached (*i.e.*, as of February 27, reported landings total approximately 97 mt) and that the General category fishery should be closed. Therefore, retaining, possessing, or landing large medium or giant BFT by persons aboard vessels permitted in the Atlantic tunas General category and the HMS Charter/Headboat category (while fishing commercially) must cease at 11:30 p.m. local time on February 28, 2019. The General category will reopen automatically on June 1, 2019, for the June through August 2019. This action applies to Atlantic tunas General category (commercial) permitted vessels and HMS Charter/Headboat category permitted vessels with a commercial sale endorsement when fishing commercially for BFT and is taken consistent with

the regulations at § 635.28(a)(1). The intent of this closure is to prevent overharvest of the available January subquota.

Fishermen may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize their survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the “Careful Catch and Release” brochure available at <https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure/>.

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS’ ability to timely implement actions such as quota and retention limit adjustment, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General and HMS Charter/Headboat category vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing hmspermits.noaa.gov, using the HMS Catch Reporting app, or calling (888) 872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available subquotas are not exceeded or to

enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281-9260, or access *hmspermits.noaa.gov*, for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. These fisheries are currently underway and delaying this action would be contrary to the public interest as it could result in BFT landings further exceeding the January subquota, which could result in the need to reduce quota for the General category later in the year and thus could affect later fishing opportunities. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.28(a)(1) (BFT fishery closures), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: February 27, 2019.

Karen H. Abrams,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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